



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

May 2, 2007

**MICHAEL N. MILBY, Clerk**  
P.O. Drawer 2300  
Galveston, TX 77553  
(409) 766-3530

United States District Clerk  
880 Front St.  
Suite 4290  
San Diego, CA 92101

In Re: C.A. 3:07cv3; Oswaldo Enrique Tobar, et al., v. United States of America

Enclosed is a certified copy of an order entered May 2, 2007, transferring the above case to your office. The case file can be accessed through the Electronic Case Filing/Pacer System for the Southern District of Texas at:

[ecf.txsd.uscourts.gov](http://ecf.txsd.uscourts.gov)

Please complete the receipt below and return the copy of this letter.

Sincerely,

**MICHAEL N. MILBY, Clerk**

'07 CV 0817 WQH (WMC)  
BY: Marianne Gore  
Deputy Clerk

Received and filed under Docket No.: \_\_\_\_\_ on \_\_\_\_\_

CLERK, U.S. DISTRICT COURT

BY: \_\_\_\_\_

CLOSED, TRANSFERRED

**U.S. District Court**  
**SOUTHERN DISTRICT OF TEXAS (Galveston)**  
**CIVIL DOCKET FOR CASE #: 3:07-cv-00003**  
**Internal Use Only**

Tobar et al v. United States of America  
Assigned to: Judge Samuel B Kent  
Cause: 28:1346 Tort Claim

Date Filed: 01/04/2007  
Date Terminated: 05/02/2007  
Jury Demand: None  
Nature of Suit: 362 Personal Inj. Med.  
Malpractice  
Jurisdiction: U.S. Government  
Defendant

**Plaintiff**

**Oswaldo Enrique Tobar**

represented by **Walter L Boyaki**  
Miranda & Boyaki  
4621 Persing Dr  
El Paso, TX 79903  
915-566-8688  
Fax: 915-566-5906  
Email: wboyaki@aol.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Rosa Carmelina Zambrano Lucas**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Junior Ivan Pico Alava**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Segundo Matias Zambrano Alonso**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Francisco Gabriel Yole Arteago**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**MICHAEL N. MILBY, Clerk**  
By   
**Deputy Clerk**  
5/2/2007

**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Fausto Lupercio Arias Castaneda**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Frabricio Bayron Cedeno**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Joffre Johnny Cedeno Cedeno**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Lindon Cleofe Cedeno Cedeno**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Ramon Eliades Ramon Velez Cedeno**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Daniel David Quimi Chalen**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Pablo Eduardo Lucas Conforme**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Ramon Eduardo Pilligua Conforme**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Ciro Mariano Lopez Mero**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Pedro Manuel Lopez Mero**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Jose Eduardo Lucas Mero**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Luis Antonio Penafiel Mero**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Pedro Jose Reyes Mero**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Telmo Arcadio Chica Obando**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Luis Miguel Cedeno Pico**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Jaime Gustavo Palma Pinargote**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Yardy Klever Flores Segovia**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Pacho Hernandez Solorzano**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Carlos Wilfrido Veliz Velez**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Carlos Orlando Velez Zambrano**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Jose Luis Zambrano Zambrano**

represented by **Walter L Boyaki**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**United States of America**

represented by **John Seely Luce, Jr**  
U. S. Dept. of Justice  
Admiralty and Aviation Litigation  
1425 New York Avenue  
Suite 10100  
Washington, DC 20005  
202-616-4035  
Fax: 202-616-4159  
Email: john.luce@usdoj.gov  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
01/04/2007	①	COMPLAINT against United States of America (Filing fee \$ 350) filed by all plaintiffs.(mgore, ) (Entered: 01/05/2007)
01/04/2007	②	MOTION for Walter L. Boyaki to Appear Pro Hac Vice by all plaintiffs,

		filed. Motion Docket Date 1/24/2007. (Attachments: # <u>1</u> Proposed Order) (mgore, ) (Entered: 01/05/2007)
01/05/2007	<u>❸</u>	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 4/4/2007 at 09:20 AM before Judge Samuel B Kent.( Signed by Judge Samuel B Kent ) Parties notified.(mgore, ) (Entered: 01/05/2007)
01/05/2007	<u>❹</u>	Summons Issued as to United States of America, filed.(mgore, ) (Entered: 01/05/2007)
01/05/2007	<u>❺</u>	Filing fee re: <u>1</u> Complaint : \$350.00, receipt number 320966, filed. (lusmith, ) (Entered: 01/05/2007)
01/08/2007	<u>❻</u>	ORDER re: computer codes printed on proposed orders.( Signed by Judge Samuel B Kent ) Parties notified.(mgore, ) (Entered: 01/08/2007)
01/10/2007	<u>❼</u>	ORDER striking <u>2</u> MOTION for Walter L. Boyaki to Appear Pro Hac Vice. not in compliance w/ L.R. 7, etc.( Signed by Judge Samuel B Kent ) Parties notified.(ceaton, ) (Entered: 01/11/2007)
01/16/2007	<u>❾</u>	CERTIFICATE OF INTERESTED PARTIES, filed.(ceaton, ) (Entered: 01/17/2007)
03/02/2007	<u>❷</u>	ANSWER to Complaint by United States of America, filed.(Luce, John) (Entered: 03/02/2007)
03/02/2007	<u>❸</u>	MOTION to Change Venue to Southern District of California by United States of America, filed. Motion Docket Date 3/22/2007. (Attachments: # <u>1</u> Memorandum in Support of the United States' Motion to Transfer Venue# <u>2</u> Affidavit # <u>3</u> Proposed Order)(Luce, John) (Entered: 03/02/2007)
03/09/2007	<u>❹</u>	CERTIFICATE OF INTERESTED PARTIES, filed.(Luce, John) (Entered: 03/09/2007)
03/14/2007	<u>❽</u>	RESPONSE in Opposition to <u>8</u> MOTION to Change Venue to Southern District of California, filed by Oswaldo Enrique Tobar. (Boyaki, Walter) (Entered: 03/14/2007)
03/15/2007	<u>❾</u>	RESPONSE in Opposition to <u>8</u> MOTION to Change Venue to Southern District of California, filed by Oswaldo Enrique Tobar. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u> # <u>4</u> # <u>5</u> # <u>6</u> # <u>7</u> # <u>8</u> # <u>9</u> # <u>10</u> # <u>11</u> )(Boyaki, Walter) (Entered: 03/15/2007)
03/20/2007	<u>❿</u>	REPLY in Support of <u>8</u> MOTION to Change Venue to Southern District of California, filed by United States of America. (Attachments: # <u>1</u> Reply# <u>2</u> Affidavit)(Luce, John) (Entered: 03/20/2007)
03/22/2007	<u>❾</u>	JOINT DISCOVERY/CASE MANAGEMENT PLAN by Oswaldo Enrique Tobar, filed.(Boyaki, Walter) (Entered: 03/22/2007)
04/04/2007	<u>❻</u>	Minute Entry for proceedings held before Judge Samuel B Kent. SCHEDULING CONFERENCE held on 4/4/2007. Docket Control Order to be entered. Appearances: Walter L Boyaki, John Seely Luce, Jr.(Court

		Reporter: K. Metzger), filed.(mgore, ) (Entered: 04/05/2007)
04/11/2007	④ 14	SCHEDULING ORDER: Pltf Expert Witness List due by 10/2/2007 Deft Expert Witness List due by 11/9/2007 Discovery due by 12/30/2007 Joint Pretrial Order due by 1/4/2008 Pretrial Conference set for 1/11/2008 at 12:00 PM before Magistrate Judge John R Froeschner Bench Trial set for 1/14/2008 at 08:30 AM before Judge Samuel B Kent.( Signed by Judge Samuel B Kent ) Parties notified.(mgore, ) (Entered: 04/11/2007)
04/30/2007	④ 15	ORDER TO TRANSFER CASE to Southern District of California; granting <u>8</u> MOTION to Change Venue to Southern District of California. ( Signed by Judge Samuel B Kent ) Parties notified.(mgore, ) (Entered: 05/02/2007)
05/02/2007	④	Interdistrict transfer to Southern District of California. Certified copy of transfer order, certified docket sheet, and two copies of transfer letter (with a return envelope) sent by certified mail. Case terminated on May 2, 2007, filed. (mgore, ) (Entered: 05/02/2007)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

OSWALDO ENRIQUE TOBAR, et al.,

§

Plaintiffs,

§

v.

§ CIVIL ACTION NO. G-07-003

UNITED STATES OF AMERICA,

§

Defendant.

§

**ORDER GRANTING DEFENDANT'S MOTION TO TRANSFER VENUE**

Plaintiffs bring this action against the United States of America under the Federal Tort Claims Act, the Suits in Admiralty Act, and the Public Vessels Act. The United States of America filed a Motion to Transfer Venue to the Southern District of California, and Plaintiffs are opposed to the Motion. For the reasons articulated below, the United States' Motion to Transfer Venue to the Southern District of California is **GRANTED**.

**I. Background and Analysis**

Plaintiffs allege that, on or about October 5, 2005, the U.S. Coast Guard Law Enforcement Detachment, which was operating the USS MCCLUSKY, unlawfully and negligently stopped, searched, arrested, detained, and imprisoned Plaintiffs, seized their vessel, and destroyed the cargo and fish on board. The alleged unlawful search and seizure occurred in international waters off the Galapagos Islands and was allegedly conducted because Plaintiffs were suspected of smuggling and possessing illegal drugs.

The United States requests that the Court transfer this case to the Southern District of

1

TRUE COPY I CERTIFY  
ATTEST:  
MICHAEL N. MILBY, Clerk  
By   
Deputy Clerk

California because the USS MCCLUSKY was physically located in its homeport, San Diego, on the date that the claim was filed. Under the Public Vessels Act, a claim may be filed against the United States, but the claim must be filed in the "district court of the United States for the district in which the vessel or cargo is found within the United States." Public Vessels Act, 46 U.S.C. § 31104(a); *see Sherman v. U.S.*, 246 F. Supp. 547 (W.D. Mich. 1965) (transferring a case from Michigan to Wisconsin when the vessel was moored in Wisconsin at the time the suit was filed, even though the incident giving rise to the suit occurred in Michigan).

Plaintiffs claim that they were aware that the USS MCCLUSKY's homeport was in the Southern District of California, but that they wanted to file the claim in the Southern District of Texas. Plaintiffs claim that Houston, Texas is the most convenient U.S. location for them. Plaintiffs are Ecuadorian Nationals, and there are allegedly economical nonstop flights from Ecuador to Houston each day. Plaintiffs claim that the only flights from Ecuador to San Diego stop through Houston.<sup>1</sup>

Because Plaintiffs had a strong desire to litigate this matter in the Southern District of Texas, they claim that they tried to wait to file the claim until the USS MCCLUSKY was not in port so that the mandatory venue rules would not require them to litigate in San Diego. However, they were unable to obtain information from the U.S. Coast Guard regarding the USS MCCLUSKY's location. Plaintiffs claim that the phone calls they made inquiring about the vessel's location either went

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<sup>1</sup>Plaintiffs do not address flights to the relatively nearby, enormous Los Angeles International Airport. While a quick search on the internet reveals that there are no nonstop flights from Ecuador to Los Angeles International at this time, it is generally substantially less expensive to fly from Ecuador to Los Angeles than it is to fly to San Diego. Furthermore, on some dates, it is less expensive to fly from Ecuador to Los Angeles (with the stop) than to fly nonstop to Houston.

unanswered, or, when the calls were answered, Plaintiffs were told that the location of the USS MCCLUSKY could not be disclosed as a matter of national security.

Plaintiffs request that the Court disregard the United States' assertion that the USS MCCLUSKY was in port on the day in which the claim was filed under the doctrine of judicial or equitable estoppel. According to Plaintiffs, they had no choice but to rely on the actions of the agents of the United States, who refused to give them information. The Court finds that estoppel is not appropriate in this action. Plaintiffs did not rely on any assertions by the United States that the USS MCCLUSKY was not in port when it in actuality was. Rather, the United States did not give them any information about the location of the vessel. While Plaintiffs claim that the information was withheld under the "guise of national security," the Court finds that, particularly given the current state of national affairs, the United States was justified in withholding the vessel's location. This Court is not in the position to second guess the Executive Branch's invocation of heightened measures of security for the protection and well-being of U.S. vessels and their crews. Thus, the United States is not estopped from asserting that the USS MCCLUSKY was in port on the date in which this claim was filed.

## **II. Conclusion**

The Court sympathizes with Plaintiffs' claims regarding their convenience and is tempted to retain the case in the interest of equity. Moreover, the case involves very interesting facts and applicable law. However, the United States is entitled to sovereign immunity, and, under the Public Vessels Act, its waiver of immunity is clearly and unambiguously limited and applies only when the case is litigated in the forum in which the vessel was found when the lawsuit was filed. Here, the vessel was in the Southern District of California when the claim was filed. Therefore, the United

States' Motion to Transfer to the Southern District of California must be and hereby is **GRANTED**.

This case is hereby **TRANSFERRED** to the Southern District of California pursuant to 28 U.S.C.

§ 1404. Any unresolved issues are respectfully deferred to the considered judgment of the transferee court. Each Party is to bear its own taxable costs and expenses incurred herein to date.

**IT IS SO ORDERED.**

**DONE** this 30th day of April, 2007, at Galveston, Texas.



Samuel B. Kent  
United States District Judge

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED

MAY 04 2007

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY DEPUTY

## I (a) PLAINTIFFS

## DEFENDANTS

Tobar, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF El Paso, TX.  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY) \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Walter L. Boyaki  
4621 Persing Dr.  
El Paso, TX. 79903  
915-566-8688

## ATTORNEYS (IF KNOWN)

'07 CV 0817 WQH (WMC)

## II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- |   |  |
|---|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff            | <input type="checkbox"/> 3 Federal Question<br>(U.S. Government Not a Party)       |
| <input checked="" type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT  
(For Diversity Cases Only))

	PT	DEF	PT	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

## IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28:1346

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> 120 Marine	310 Airplane	<input checked="" type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	355 Motor Vehicle Product Liability		<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> 190 Other Contract	360 Other Personal Injury		<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 865 RSI (405(p))
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 555 Prisoner Conditions		<input type="checkbox"/> 890 Other Statutory Actions

## VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding  2 Removal from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

## DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND:  YES  NO

## VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE May 4, 2007

SIGNATURE OF ATTORNEY OF RECORD